

CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT

APRIL 8, 2004

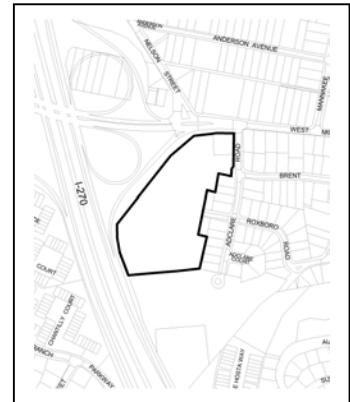
SUBJECT:

Special Exception Application SPX2004-00339

Applicant: First Baptist Church of Rockville
Weekday Early Education Center (Wee Center)
c/o Carol Corbett, Director
55 Adclare Road, Rockville, Maryland 20850

Property
Owner: First Baptist Church of Rockville,
55 Adclare Road, Rockville, Maryland 20850

Planning Commission Review Date: April 14th 2004
Board of Appeals Public Hearing Date: May 1st 2004



PREVIOUS RELATED ACTIONS:

Use Permit U-487-70, First Baptist Church of Rockville c/o of Billy Strawn - a development proposal to construct a church sanctuary and Sunday school building and associated site surface parking on the subject property in the then R-60 (single family detached, residential) and now R-S (Suburban Residential) Zone. Approved by the Planning Commission on April 29th 1970. **(APPLICATION EXPIRED – DUE TO LACK OF IMPLEMENTATION)**

Use Permit U-547-71, First Baptist Church of Rockville – a development proposal to construct a new church and associated site parking on the subject property located in the R-S (Suburban Residential) Zone. Approved by the Planning Commission on November 24, 1971.

Use Permit U-449-89, First Baptist Church of Rockville – a development proposal to construct a new story addition on the existing church and associated site parking on the subject property located in the R-S (Suburban Residential) Zone. Approved by the Planning Commission on November 29, 1989. **(APPLICATION EXPIRED – DUE TO LACK OF IMPLEMENTATION)**

REQUEST:

In accordance with Sections 25-296 & 355(a) of the City of Rockville Zoning Ordinance, the applicant seeks special exception approval to continue to operate its childcare operation and reestablish its kindergarten program. According to information provided by the applicant, the church has operated a childcare center with a private kindergarten program since the mid 1970s.

However, based on available City records, special exception approval was never sought nor granted for the establishment and operation of the church's childcare and kindergarten programs. In order to renew its license with the Maryland Childcare Administration, obtain a current occupancy permit from the City of Rockville, and reestablish its kindergarten program in accordance with requirements of the State of Maryland Department of Education, the applicant seeks approval of the subject request as submitted.

RELEVANT ISSUES:

In reviewing the application request, the following issues emerged and are to be addressed as is appropriate:

- The childcare and kindergarten programs continue to operate as described in the subject request.
- Number of children cared for may not exceed the school's licensed building capacity, as determined by the State's Child Care Administration, i.e., 66 children.

STAFF RECOMMENDATION:

Approval is recommended subject to the following conditions:

1. The applicant must acquire any/all appropriate licensing from county and/or state agencies charged with regulating the private educational institutional uses, i.e., childcare center and kindergarten.
2. Prior to the issuance of an occupancy permit, the church must amend/update the accompanying site plan to denote the following information: (a) current seating capacity of the church sanctuary and the total number of parking spaces required and provided for the existing church sanctuary, and the childcare and kindergarten program components, (ref. Sections 25-395(8)(14)&(39) of the Zoning Ordinance).
3. The nursery school and kindergarten must be operated in substantial accordance as represented in the subject application request, i.e., number of classrooms and floor space occupied, maximum number of children enrolled, staffing levels, days and hours of operation, etc.
4. The total number of children being cared for by the school may not exceed 66 children, at any one time.

ANALYSIS:

Property Description

Based on available information, the subject church property is approximately 9.23 acres (402,191 square feet) in size and initially developed in the early 1970s with a two-story church and accompanying site surface parking facilities (ref. U-457-71). As denoted in the information provided, the seating capacity of the church sanctuary is listed at 350 seats. As per the Zoning Ordinance, 88 on-site parking spaces are required to accommodate the subject site/church use, i.e., one (1) parking space for each four-(4) seats for whom parking is provided for in the main auditorium. As shown on the site 's "property line survey" submitted with the subject special exception request, the site has a total 128 surface parking spaces located within paved parking areas and an undetermined amount of space within two graveled parking areas, one abutting the western most paved parking lot, and the other located in the northeastern area of the property.

The church building is of masonry construction and located primarily in the center of the site. The site is bound to the south by the Rockville Christian Church and Rockville Nursing Home, west by Interstate Highway-270, north by West Montgomery Avenue (Md. Route 28) and single-family detached dwellings, and northeast and east by the residential subdivision of Roxboro. Vehicular access to the site is provided via a single entrance on Adclare Road. The church's vehicular entrance is located approximately 225 feet \pm south of the intersection of Adclare Road and West Montgomery Avenue.

The site's topography ranges from flat to gently sloping, with site surface grades being higher along the site's Interstate 270 frontage, and surface grades of the overall site area being noticeably lower. The site is substantially landscaped, containing an array of mature shrubs, trees, and other planted material, all ranging in species and size, located primarily in the eastern and southeastern areas of the property. The western side yard area of the site, adjacent to Interstate Highway 270, is improved with site vehicular parking and outdoor play area, containing little or no trees and planted material. However, the large mature trees that are predominate on the church site, are located mostly in the eastern-side and front yard areas of the property.



Aerial overview of 55 Adclare Road

Existing/Proposed Site Use

According to available information, the church was built on the subject site in the early 1970s. The church's childcare and kindergarten operation is located on the basement/ground level of the church and commenced operations in 1976. The subject special exception is a request to allow the church to continue its current operation of the childcare center and reestablish its kindergarten component, as previously licensed by the state and county. The applicant has provided a copy of its license issued from the State's Department of Human Resources Child Care Administration, for the operation of its childcare and kindergarten programs, permitting a building capacity for 66 children. When the applicant attempted to renew its license with the State's Department of Human Resources (DHR) Child Care Administration, they were directed to obtain a current occupancy permit from the City of Rockville. Upon applying for the occupancy permit, City staff informed the applicant that the permit could not be approved because there was no record that the applicant had applied for or been granted special exception approval to operate its childcare and kindergarten programs.

While the childcare component has been operational since 1976, the applicant affirmed that the kindergarten program was operational from 1976 up to the spring of 2003. It was discontinued and not operational during the 2003/04 school year. However, under the subject request, the church proposes to reestablish the kindergarten program, beginning the 2004/05 school year. Thus, in order to renew its license with DHR, obtain a current occupancy permit from the City of Rockville, secure approval from the Maryland State Department of Education (MSDE) to reinstate its kindergarten program, the applicant must obtain formal special exception approval to operate its childcare and private kindergarten, as required by Section 25-296 of the Zoning Ordinance.

The church's childcare and kindergarten operation is known as the Weekday Early Education (WEE) Center, operating between the hours of 7:00 a.m. to 6:00 p.m., Monday thru Friday. The WEE Center is closed eleven holidays out of the year, one in-service day, and one week in August to allow staff to prepare for the new school year. The center is staffed by 23 full and part time employees, which includes teachers, administrators, and support personnel. Children being cared for by the center/school are of pre-school age, ranging from 2 years thru 5 years of age. The applicant affirms that while the State of Maryland Child Care Administration has licensed the school for 66 children, the school's 2003-2004 enrollment, totals 62 children. Most children attend five days a week, while some are enrolled for three or four days. Children arrive and depart the site via private vehicles. Children are dropped-off and picked-up at varying times during the day, depending on the age of the child and the level of services and care being provided to a given child.

The Wee Center is located on the lower level of the church, occupying five classrooms. The center also has use of the fellowship hall, which is partitioned to serve as the center's lunchroom, music room, and indoor playroom. Interior stairwells allow access between the lower and upper levels of the church. While, there are exterior entry/exit doors located on the ground level of the church, some of those doors appear to be used only as emergency exits. For security reasons, parents dropping-off and picking-up their children enter and exit the building via the west side

(rear) building entrance. Building access via that entrance is controlled by a keypad system with electronic locking security doors.

In accordance with Section 25-395 (8) of the Zoning Ordinance, a total of 88 parking spaces are required for the church, based on its 350-seat sanctuary, i.e., one space per each four-(4) seats provided in the main auditorium/sanctuary is required. In accordance with Sections 25-395(14)&(39) of the Ordinance, 12 parking spaces are required for the kindergarten program and 14 are required for the childcare operation, i.e., one (1) parking space for each two (2) employees, including teachers and administrators, plus sufficient off-street space for the safe and convenient loading and unloading of students, and one parking space per every four (4) children.

Per the site plan submitted with the application request, sufficient on-site parking exists for both the subject site uses, e.g., a minimum of 129 parking spaces are shown (as being provided) in the paved parking area alone, and additional vehicle parking spaces provided in the two (2) on-site graveled parking areas.

Since a childcare center and private educational institutional uses are permit in respective residential zones only by grant of special exception approval, the applicant seeks approval of the subject request in order to reinstate its kindergarten program, bringing it and the church childcare operation into compliance with applicable requirements of the City's Zoning Ordinance.

Applicable Sections of the Zoning Ordinance and Staff Analysis

In accordance with Section 25-338 of the Ordinance, the Board of Appeals shall not grant any petition for a special exception unless it finds from a preponderance of the evidence of record that:

1. The proposed use does not violate or adversely affect the Master Plan (the plan), the Zoning Ordinance or any other applicable law; and

The childcare and kindergarten (save school year 2003/04) have been located and operational at the church for well over 25 years. The continued operation of the center as described in the subject request, will not violate or adversely affect the Plan, the Ordinance, or any known laws of the City. The land use designation of the subject property as assigned by the Plan is for "institutional" land usage. Based on the manner in which the applicant has and plans to continue to operate the center, there is no evidence these private educational institutional uses, coupled with the customary use and operations of the church has and/or will violate any applicable law/s. The applicant affirms in submission of the special exception that the childcare and kindergarten programs, will continue to adhere to and comply with all applicable county and/or state licensing requirements. By allowing said institutional uses in respective residential zones as special exception land uses, inference is made from the Ordinance that such uses are appropriate in residential zones, if it can be demonstrated that said uses will not adversely impact surrounding land uses, within the community in which they are located.

2. The proposed use at the location selected will not: a) Adversely affect the health and safety of residents in the area; or b) Overburden existing public services, including water, sanitary sewer, public roads, storm drainage and other public improvements; or c) Be detrimental to the use or development of adjacent properties or the neighborhood; or d) Change the character of the neighborhood in which the use is proposed, considering services currently required, population density, character, and number of similar uses; and

While the childcare and kindergarten are/will be operational weekdays between the hours of 7:00 a.m. to 6:00 p.m., year round, the center is not the primary use of the subject property; the church is deemed to be the principal use of the site. Submitted with the application is a schedule of church related activities, denoting the day and time of respective activities and church functions (See Attachment "B").

As noted the church childcare and kindergarten has been operational at the subject location for well over 25 years and as such have become established institutional uses within the community and the City. While it is not certain, how the church established and operated its childcare and kindergarten programs without grant of special exception approval, the applicant affirms that the school has operated without major incident, or concern to its neighbors. Children are picked-up and dropped-off at various times of the day, insuring that site generated vehicular traffic is spread out over the course of the day, as opposed to being more heavily concentrated during morning and evening peak hour travel times. According to the information provided, there is no evidence that the amount of vehicular traffic generated by the center has overburden or adversely impacted existing roadways/streets within the site area.

A review of available City records indicate there are no violations or complaints filed or pending against the church's childcare and previous kindergarten operations. There is no evidence the use has been a nuisance, or that it has been shown to have adversely impacted the public health, safety, and welfare of persons living and/or working in the site area. The predominately residential and institutional land use patterns that make up the site area are well-established and highly unlikely to change due to the continued operation of this site use. Under the request as submitted, there are no plans to expand or substantially alter the church or its building facilities, in order to accommodate the continued operation of the center/school. Thus, existing public facilities, such as site area roadways, water and sewer service, storm drainage infrastructure, will not be impacted or overburden by the applicant's request as submitted.

Based on the information provided, the church and its childcare/kindergarten will continue to operate and function in much the same manner as they have over the past several years. Staff believes that based on current land use patterns of the site area, coupled with regulatory oversight of the Zoning Ordinance, i.e., which allows childcare centers and private educational institutional uses in the R-S zone only by grant of special exception, it is highly unlikely there will be a proliferation of similar land uses within the site area.

3. The proposed use complies with the requirements of the Zoning Ordinance that are applicable thereto.

The application is submitted in accordance with Section 25-296 of the Ordinance. The subject special exception if granted, would bring the church's childcare and kindergarten programs into compliance with applicable requirements of the Ordinance. Also, if the request is granted as requested, it would allow the applicant to obtain the licensing its needs from the State's Child Care Administration and Maryland State Department of Education, to operate the center as described in the subject request.

In addition to the referenced standards for granting the special exception, which the Board of Appeals base its findings, in review and consideration of the subject request, ***as per Section 25-355(a) of Ordinance, the following "additional findings" apply to "Child Care Centers:*** 1). The use will not constitute a nuisance because of traffic, number of children being care for, noise or type of physical activity. 2) That the site provides ample outdoor play space, free from hazard and be appropriately equipped for the age and number of children being cared for. 3) The use satisfies all applicable state and county requirements. 4) If a childcare center is located within one thousand feet of another center, the cumulative effect of the centers will not have an adverse impact on the neighborhood due to noise, traffic, or other similar facts

The WEE Center, which has childcare and kindergarten programs will have an enrollment/building capacity for 66 children. The subject church site is 9.23 acres (402,191 square feet) in size. The subject property has well over 500 feet of lot frontage along Interstate Highway 270, 250 feet along Md. Route 28, and 200 feet along Adclare Road. According to the site's property line survey, submitted with the subject request, the church has a front yard setback of 200 feet, minimum side yard setback of 100 feet and rear yard setback of 240 feet.

As noted, the center has been operational for well over 25 years and such there is no evidence or record of complaints or violations for the subject site use. Outdoor play areas are located in the rear western area of the site, well away from any surrounding residential land uses. The applicant notes that "the center has a spacious playground area, made up of climbers and slides, and a school bus climber. The grounds adjacent to Interstate Highway 270 are completely fenced. The climbing apparatuses are set in an area cushioned by wood chips. A large sand box is located next to the play area."

The applicant has affirmed that the use will continue to operate in accordance with all applicable state and county requirements, which is evidenced by supporting documents submitted as part of the subject special exception request. The neighboring property to the south, the Rockville Christian Church operates a nursery school and kindergarten. The Rockville Christian Church has operated its nursery school and kindergarten programs since the mid 1960s. Staff found no evidence that the neighboring use coupled the applicant's operation of its childcare and kindergarten programs have adversely impacted the neighborhood due to noise, vehicular traffic, and/or other related site activities.

Based on all of the noted factors, staff finds suitable justification to recommend Special Exception Application SPX2004-00339 be approved, subject to the conditions as referenced on page two of this staff report.

COMMUNITY NOTIFICATION PROCESS

Notification cards were sent to surrounding property owners informing them of the application request and upcoming Planning Commission review and Board of Appeals public hearing, where the request will be publicly considered. Notices were sent to 392 addresses located within the subject site area. A list of the addresses to which notices were sent is contained in the project's application file, available for public review and inspection.

/cdc

List of Attachments

- Attachment "A" – Letter of Authorization
- Attachment "B" – Schedule of Church Activities
- Attachment "C" – Wee Center Curriculum
- Attachment "D" – Copy of DHR License
- Attachment "E" – MSBE Approval
- Attachment "F & G" – Previous Occupancy Permits
- Exhibit "1 & 2" – Site Plans
- Exhibit "3 & 4" – Existing Building Floor Plans
- Exhibit "5" – Building Elevations